

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
Establishing Just and Reasonable Rates for Local Exchange Carriers)	WC Docket No. 07-135
)	
High-Cost Universal Service Support)	
)	WC Docket No. 05-337
Developing an Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Lifeline and Link-Up)	
)	WC Docket No. 03-109
Universal Service Reform – Mobility Fund)	WT Docket No. 10-208

REPLY COMMENTS OF HAWAIIAN TELCOM, INC.

Hawaiian Telcom, Inc. (“Hawaiian Telcom”) has requested a limited waiver of the call signaling rules adopted by the Commission as part of the *USF/ICC Transformation Order*.¹

Pursuant to public notice, three comments were filed on that waiver request, two of which fully

¹ *Connect America Fund, et al.*, Report and Order & Further Notice of Proposed Rulemaking, WC Docket Nos. 10-90, *et al.*, FCC 11-161 (Nov. 18, 2011) (“*USF/ICC Transformation Order*”), *pets. for review pending*, *Direct Commn’s Cedar Valley, LLC v. FCC*, No. 11-9581, *et al.* (10th Cir., filed Dec. 18, 2011). The call signaling rules are to be codified at 47 C.F.R. § 64.1601(a)(1)-(2) (the “call signaling rules”).

supported Hawaiian Telcom's request.² Even the one comment that sought conditions did not oppose the grant of a waiver, but rather sought assurances that any waiver granted would be limited and consistent with the recently adopted call signaling rules.

Hawaiian Telcom fully supports the Commission's phantom traffic rules, of which the call signaling rules are a part, and believes that they will prove essential in adequately defining the nature of traffic for billing purposes. A waiver of the rules in limited circumstances is necessary, however, because it is not feasible for Hawaiian Telcom to implement the new call signaling rules in certain circumstances affecting a limited amount of traffic. Moreover, there is no suggestion that Hawaiian Telcom has transmitted phantom traffic and no accusation that this waiver is sought in order to evade the phantom-traffic rules. Grant of a waiver in this instance is consistent with the public interest and justified by the good cause standard. Therefore, Hawaiian Telcom urges the Commission to grant the instant waiver petition.

I. GRANT OF A LIMITED WAIVER OF THE CALL SIGNALING RULES IS IN THE PUBLIC INTEREST.

The Commission adopted its new call signaling rules in the *USF/ICC Transformation Order*³ based on a strong industry consensus as to their necessity. The strong support for "phantom traffic" rules led to an industrywide consensus on the rules the FCC should adopt to address the problem.⁴ Hawaiian Telcom supported the need for these new rules. The rules

² Public Notice, *Wireline Competition Bureau Seeks Comment on Hawaiian Telcom Petition for Limited Waiver of Call Signaling Rules*, CC Docket Nos. 01-92, *et seq.*, DA 12-351 (rel. Mar. 8, 2012).

³ *USF/ICC Transformation Order*, ¶¶ 704, 710-18. The rules require transmission of calling party number ("CPN") and charge number ("CN"), if CN is different from CPN, for voice traffic that utilizes the public switched network ("PSTN"), regardless of the jurisdiction or technology used to generate the call. *Id.* ¶ 714. In addition, the rules prohibit an intermediate provider from modifying the call signaling information provided by a carrier that precedes it in the routing of a call. *Id.*, ¶¶ 719-20.

⁴ Letter from Glenn T. Reynolds, Vice President, Policy, USTelecom, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 01-92 (filed Feb. 12, 2008).

adopted by the Commission can be expected to achieve their purpose: to stabilize intercarrier revenues by ensuring that sufficient information is transmitted to the billing carrier. This will in turn enable the billing carrier to assess and collect the correct amount of intercarrier charges during the transition to a new intercarrier compensation paradigm involving restructured compensation mechanisms and much lower or no payments between carriers.

Hawaiian Telcom's petition for waiver is not backtracking on that firm commitment. Rather, the petition is a response to the FCC's decision not to adopt a technical feasibility exception to the call signaling rules in line with industry proposals.⁵ Because of this decision, nine waivers of the call signaling rule have been filed to date, demonstrating that this is a widespread issue that needs to be addressed.

In fact, USTelecom strongly supports Hawaiian Telcom's requested waiver because Hawaiian Telcom's request is consistent with the spirit of the rules by ensuring compensation to terminating carriers in the limited circumstances of the waiver.⁶ USTelecom notes that "the waiver is necessary because Hawaiian Telcom transmits to other carriers the CPN that customers purchasing PBX and Centrex services deliver to Hawaiian Telcom."⁷ They argue it would be economically irrational to require modification to existing equipment in these circumstances.⁸ USTelecom supports the waiver of the CPN/CN rule where MF signaling is used for PSTN-bound traffic traversing MF trunks and for operator and services and directory assistance platforms.⁹ USTelecom argues that coming into full compliance with the Order would require

⁵ *USF/ICC Transformation Order*, ¶ 723.

⁶ Comments of the United States Telecom Association, WC Docket No. 10-90, *et al.*, 2 (dated Apr. 9, 2012) ("US Telecom Comments").

⁷ *Id.* at 3.

⁸ *Id.*

⁹ *Id.* at 4.

costly switch upgrades or replacement, diverting resources from deploying next generation networks.¹⁰

CenturyLink also fully supports Hawaiian Telcom’s waiver request for the same reasons it used to justify its own call signaling waiver petition.¹¹ In particular, CenturyLink argues that a waiver request is justified because of the time consuming and burdensome costs associated with switch upgrades or replacement.¹² Requiring these costly modifications not only would divert “scarce capital and resources that could be used to build-out next-generation broadband networks. . . .,”¹³ a narrow waiver will not undermine the goals of the call signaling rule changes because of the use of “long-established and well-accepted industry practices” . . . “to ensure proper payments of intercarrier compensation with terminating carriers.”¹⁴ CenturyLink concludes that good cause has been demonstrated in support of Hawaiian Telcom’s petition for waiver.¹⁵

The RLEC Associations do not oppose the grant of a limited waiver of the call signaling rules in these circumstances. Notwithstanding, they were alone in filing comments that sought to place conditions on Hawaiian Telcom’s waiver request.¹⁶ Although the RLEC Associations understand the expense and burden of replacing outdated equipment, which would be needed

¹⁰ *Id.*

¹¹ Comments of the CenturyLink, WC Docket No. 10-90, *et al.*, 2 (dated Apr. 9, 2012) (“CenturyLink Comments”).

¹² *Id.*, Appendix A, CenturyLink, Inc. Petition for Limited Waiver, WC Docket No. 10-90, *et al.*, 5 (dated Jan. 23, 2012) (“*CenturyLink Call Signaling Waiver*”).

¹³ *Id.*

¹⁴ *Id.* at 6.

¹⁵ CenturyLink Comments at 2.

¹⁶ Comments of the National Telecommunications Cooperative Association, Organization for the Promotion and Advancement of Small Telecommunications Companies, Western Telecommunications Alliance, and National Exchange Carrier Association, Inc. on Hawaiian Telcom’s Petition for Limited Waiver of the Commission’s Call Signaling Rules, WC Docket No. 10-90, *et al.*, 2 (dated Apr. 9, 2012) (“RLEC Association Comments”).

only during the limited intercarrier compensation transition, they are concerned that the requested rule waiver may be unbounded and that certain reporting requirements should be imposed. They therefore seek a more detailed explanation and justification for the requested waiver. Specifically, with respect to SS7 switches, they request that

any waiver include requirements for Hawaiian Telcom to: (1) publish a list of switches covered by the waiver; (2) provide terminating carriers frequently (*i.e.*, monthly) with information necessary to audit PIUs and/or call records; and (3) submit reports at six month intervals detailing the status of Hawaiian Telcom's efforts to upgrade its network to come into compliance with the new call signaling rules.¹⁷

With respect to MF Signaling, on the other hand, RLEC Associations recognize the limited capabilities of this older technology and state that they “do not oppose Hawaiian Telcom’s waiver request for MF signaling.”¹⁸ They do remark, however, that Hawaiian Telcom should be able to transmit either the CN or CPN over these trunk groups and should provide a list of switch locations covered by the waiver.

II. A WAIVER IS NECESSARY BECAUSE TRANSMITTING CHARGE NUMBER FOR ALL SS7-CAPABLE EQUIPMENT CURRENTLY DEPLOYED IS NOT TECHNICALLY FEASIBLE.

The RLEC Associations reporting obligations should not be adopted. As Hawaiian Telcom stated in its petition for waiver, when Hawaiian Telcom’s SS7-capable switches were designed and deployed in its network, the applicable industry standard for intrastate traffic did not require the use of the CN field. Consequently, many of these switches were not deployed with the capabilities to generate and pass CN in this signaling field when it is different from CPN. Developing and installing the software necessary to modify outdated, and sometime unsupported, SS7 switches and associated trunking parameters are likely to entail millions of

¹⁷ *Id.* at 5-6.

¹⁸ *Id.* at 6.

dollars of investment that itself is not guaranteed to correct the CPN/CN issues that arise. It should be noted that the current issue arises only because customers purchasing PBX and Centrex services did not need or assign CPNs in the first place. Verizon describes these technical issues in more detail in its own reply comments it filed with respect to its own call signaling waiver request.¹⁹

As a consequence of these customer actions, CN has been populated, if at all, with a variety of numbers that do not necessarily accurately identify the location of the customer. It would require costly and time-consuming modifications to address this issue, and RLEC Associations have presented no facts to counter this assertion. It would be technically infeasible to upgrade these switches, especially those switches no longer supported by the manufacturer. And given the short amount of time of the intercarrier compensation transition, such equipment modifications would be wasteful, and would divert capital from deploying broadband networks.

The Commission should reject the RLEC Association's call for further reporting obligations for other reasons as well. First, Hawaiian Telcom provides in this reply information concerning the number of switches affected and approximate costs associated with the requested rule waiver. This information sufficiently justifies granting of the limited waiver requested. Second, Hawaiian Telcom already has agreements with its customers regarding data-sharing, and the customers do not need additional data to audit PIU agreements. Hawaiian Telcom's data-sharing agreements are standard in the industry today and were either incorporated into tariffs and/or negotiated into contracts. These agreements already contain detailed procedures concerning access to data, how and when an audit may be conducted, and who pays for such an audit. The RLEC Associations have provided no evidence that these procedures do not work as

¹⁹ Reply Comments of Verizon in Support of Limited Waiver, CC Docket No. 01-92, *et al.*, 3-4 (dated Apr. 3, 2012).

currently structured. It would be extraordinary and unlawful for the Commission to modify these tariffs or abrogate these contractual provisions in the context of a waiver petition without evidence to justify such action. Third, Hawaiian Telcom should not be required to report to the Commission switch modifications to fulfill the letter of the new call signaling rules. The waiver is being requested in order to avoid changing outmoded switches earlier than would occur in the normal course of business. Therefore, there would be no useful purpose served in mandating this additional reporting burden.

As Hawaiian Telcom has indicated, granting a limited waiver of the rule will not undermine the goals of the new call signaling rules. Hawaiian Telcom already provides call data to its customers pursuant to tariffs and/or negotiated contracts. Therefore, grant of the subject waiver is in the public interest because of the significant operational and financial burdens to fully implement the new rules, the limited amount of such traffic, and the relatively small benefit terminating carriers may obtain from receiving CN for all intrastate calls at this time.

III. IT IS NOT TECHNICALLY FEASIBLE TO COMPLY WITH THE CALL SIGNALING RULES WHERE OLDER MF SIGNALING TECHNOLOGY IS USED.

All parties recognize the need for a waiver concerning MF signaling. It is not technically feasible for Hawaiian Telcom to pass CPN/CN in accordance with the MF signaling requirement for all PSTN-bound voice traffic traversing MF trunks. For instance, like Verizon, Hawaiian Telcom utilizes some MF trunking to support its operator services and directory assistance platforms. For intrastate traffic exchanges, the MF equipment deployed in Hawaiian Telcom's network was not designed to signal CPN or CN as contemplated by the Commission's new rules. The industry standard for MF signaling does not specify this parameter for the ANI field; and therefore, it is not technically feasible to populate the ANI field in this manner. HT provides operator and directory assistance services from two specialized switches that would require

modification or replacement. New technology will eventually replace these switches once they become obsolete, and, therefore, it would be economically wasteful to spend the millions of dollars to modify or replace these switches particularly given the transition away from intercarrier compensation currently underway. For the reasons discussed above, any replacement of MF facilities would certainly impose a significant economic burden and divert resources away from broadband deployment. As stated previously, upgrades of old technology will not provide terminating carriers with additional useful information to help them determine the jurisdiction of their traffic. And consistent with current practice, Hawaiian Telcom will continue to transmit ANI that it has available in accordance with standard industry practices. Accordingly, it would not further the public policy goals of the rules to require Hawaiian Telcom to replace MF equipment under these circumstances.

IV. CONCLUSION

For all the reasons stated in this petition, the Commission should grant Hawaiian Telcom's request for a limited waiver of the new call signaling rules.

Respectfully submitted,

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April 24, 2012